

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Charlottesville Division**

BRENNAN M. GILMORE,
Plaintiff,

Case No. 3:18-cv-00017

v.

ALEXANDER E. JONES, et al.,
Defendants

*In re subpoena to
WVIR-TV, WSLS-TV, WRC-TV and
Journalists Ashley Curtis and Julie
Carey*

**DECLARATION OF LEITA WALKER IN SUPPORT OF
OBJECTIONS AND MOTION TO QUASH SUBPOENAS TO WVIR-TV, WSLS-
TV WRC-TV AND JOURNALISTS ASHLEY CURTIS AND JULIE CAREY**

I, Leita Walker, declare as follows:

1. I am a partner with the law firm of Ballard Spahr, LLP, 2000 IDS Center, 80 South Eighth Street, Minneapolis, Minnesota 55402. I am licensed to practice law in the State of Minnesota and have moved for admission *pro hac vice* in this Court. I am counsel for non-parties Gray Media Group, Inc., d/b/a WVIR-TV (“WVIR”);¹ Graham Media Group, Virginia, LLC d/b/a WSLS-TV (“WSLS”);² NBC Subsidiary (WRC-TV) LLC d/b/a WRC-TV (“WRC”),³ WSLS journalist Ashley Curtis, and WRC journalist Julie Carey (collectively, the “Non-Party Journalists”),.

¹ Gray Media Group, Inc., not Gray Television, Inc. (the entity named in the subpoena), owns and operates WVIR.

² Graham Media Group, Virginia, LLC, not Graham Media Group, Inc. (the entity named in the subpoena), owns and operates WSLS.

³ NBC Subsidiary (WRC-TV) LLC, not NBC Telemundo License, LLC (the entity named in the subpoena), owns and operates WRC.

2. I have personal knowledge of the facts stated in this declaration, and if sworn as a witness, I am competent to testify to them.

3. Attached hereto as **Exhibit A** is a true and accurate copy of a subpoena that Defendant James Hoft served on WVIR.

4. Attached hereto as **Exhibit B** is a true and accurate copy of a subpoena that Hoft served on WSLS.

5. Attached hereto as **Exhibit C** is a true and accurate copy of a subpoena that Hoft served on WRC.

6. Attached hereto as **Exhibit D** is a true and accurate copy of a subpoena that Hoft served on Curtis.

7. Attached hereto as **Exhibit E** is a true and accurate copy of a subpoena that Hoft served on Carey.

8. Attached hereto as **Exhibit F** is a true and accurate copy of an amended subpoena that Hoft served on WVIR.

9. I spoke by phone to Attorney John C. Burns, counsel to Hoft, on May 27, 2021. During this call I notified Burns that I represented WVIR and WSLS. I later notified him by email that I also represented WRC and the two individual journalists Hoft had subpoenaed. Attached hereto as **Exhibit G** is a true and accurate copy of that email.

10. During the phone call with Burns, I attempted to ascertain whether the information Hoft seeks from the Non-Party Journalists is in any way relevant to his case, to explain to Burns the privilege against compelled disclosure available to the Non-Party Journalists, and to request withdrawal of the subpoenas. Burns refused to withdraw the

subpoenas but did agree that the Non-Party Journalists could have up to and including June 14 to file a motion to quash them.

11. During the phone call, Burns represented that, notwithstanding the extremely broad scope of the subpoenas, Hoft would be satisfied to receive information showing how the Non-Party Journalists came into possession of certain aerial video footage captured by a law enforcement helicopter on the day of Heyer's murder. Hoft told me that "someone broke the law" in providing this footage to the Non-Party Journalists and that Hoft needed to know the identity of their source to defend against Plaintiff Brennan Gilmore's defamation claims.

12. I asked Burns how many subpoenas he had issued on behalf of Hoft in this case and whether he would provide a list of the subpoenaed parties or copies of the subpoenas. He said no. However, on information and belief Hoft has issued subpoenas to between 50 and 60 individuals and entities.

13. Since speaking to Burns on May 27 I have twice emailed him to inquire whether Hoft intends to serve amended subpoenas on any of my clients other than WVIR. *See Ex. G.* He has not responded to those emails.

14. Upon reviewing the docket in *United States v. Fields*, Case No. 3:18-cr-00011-MFU (W.D. Va.), I saw that the exhibit list included an item titled "Video Aerial surveillance." On June 4, I called Christopher Robert Kavanaugh, one of the federal attorneys involved in that prosecution and he confirmed that the referenced item is aerial video footage captured by a law enforcement helicopter on the day of Heyer's murder. He also confirmed that this footage was filed not only in the federal hate crimes

prosecution but also in the state murder prosecution.

15. Attached hereto as **Exhibit H** is a true and accurate copy of a July 5, 2018 Order issued in *In re: Subpoena Issued to Scott Daugherty*, Nos. CR 17000428-01 – CR 17000447-01 (City of Portsmouth Cir. Ct.).

16. Attached hereto as **Exhibit I** is a true and accurate copy of excerpts from the transcript of an August 10, 2018 hearing in *HJN Enters., LLC v. Mehlman-Orozco*, No. CL16000876 (Pr. Wm. Cnty. Cir. Ct.).

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 14th day of June, 2021, in Minneapolis, Minnesota.

s/ Leita Walker
Leita Walker